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1 no need, you know.

2 Q. Well, before you had the surgery
3 on your leg and your heart, you were
4 working light duty; right?

5 A. Oh, yeah. They had me up there
6 working with a sling. I was just working
7 light duty, door greeting.

8 Q. Okay. But you were still able
9 to do that light-duty job?

10 A. Yeah. Until I had my surgery on
11 my leg, yeah.

12 Q. So, if you had not had the
13 surgery on your leg or the stint put in
14 your heart, you could still be a greeter?

15 A. Well, he told me, though, if I
16 didn't have it done, though, I could lose
17 a leg.

18 Q. Well, I understand that. I'm
19 not suggesting that you shouldn't have
20 had the surgery done on your leg.

21 A. Yeah.

22 Q. But if your leg had not bothered
23 you --

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1 A. Yeah.

2 Q. Just pretend that it -- your leg
3 never had that problem.

4 A. Yeah.

5 Q. You could still be working as a
6 greeter?

7 A. If my legs would let me, yeah.

8 Q. Okay. That's what I was curious
9 about.

10 A. Yeah.

11 Q. All right. So, the reason that
12 you had to quit was more your leg?

13 A. And the shoulder.

14 Q. Okay. But more your leg than
15 your shoulder; right?

16 A. Yeah.

17 Q. That was yes?

18 A. Yes.

19 Q. Okay. How are your legs now?

20 A. Oh, they hurt me every day. My
21 ankles and knee swells up on me every
22 night.

23 Q. Have any of the doctors ever

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1 told you that the shoulder -- that the
2 leg circulation problem and the heart
3 stint affected your ability to heal in
4 the shoulder?

5 A. No, they didn't say nothing
6 about it affecting it. He just told me
7 when he went in it was so messed up that
8 he had to put plastic -- put pins in it
9 and said it never would be right.

10 Q. Okay. Now, you got hurt at
11 Wal-Mart in September of 2004?

12 A. Uh-huh, September 2004.

13 Q. And it was, I think, the 28th or
14 maybe early in the morning?

15 A. 27th or 28th.

16 Q. Okay. It was about 4:00 o'clock
17 in the morning?

18 A. Uh-huh (affirmative).

19 Q. You were working the overnight
20 shift?

21 A. Yeah.

22 Q. And you were unloading a truck?

23 A. Yeah, unloading a produce truck.

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1 Q. Since the day you hurt your
2 shoulder, have you kept a written diary
3 at home?

4 A. No.

5 Q. And you haven't taken any kind
6 of notes?

7 A. Nothing except all my doctor's
8 names and stuff like that.

9 Q. Okay. Then do you keep any kind
10 of a calendar indicating when you've been
11 to the doctors and conversations with
12 anybody?

13 A. No, not lately.

14 Q. Have you ever?

15 A. Not besides what I brought
16 Mr. Tinney.

17 Q. Okay. Did you bring Mr. Tinney
18 a calendar or anything that writes some
19 of those dates down?

20 A. No, I just got the medical
21 report.

22 Q. You just brought him bills and
23 things that you've received from the

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1 doctors; is that right?

2 A. Medical reports, yeah.

3 Q. Okay. Now, you were working,
4 unloading a produce truck on the 28th?

5 A. Uh-huh, yes.

6 Q. Tell me how the accident
7 happened.

8 A. Well, the truck backed in. And
9 it was supposed to have been stretched
10 wrapped and tied down. And it was
11 throwed all out in the floor. And we was
12 trying to salvage what produce we could.
13 And I had a pallet, and another boy named
14 Josh Denton was on the other side of the
15 pallet. He was picking up. I was
16 picking up the 40-pound sacks of
17 potatoes. I got them stacked up a little
18 over waist high. And they went to
19 falling. I tried to catch them, and they
20 just pinned me up against the wall and
21 popped my shoulder.

22 Q. Okay. And when you say,
23 "they're supposed to be stretch wrapped,"

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1 does that mean they're supposed to be
2 stacked up and wrapped like in cellophane
3 plastic or something?

4 A. They're supposed to be wrapped
5 all the way up and tied down. They was
6 not wrapped. They was just throwed all
7 out in the truck.

8 Q. Okay. So, y'all were trying to
9 clean up a mess?

10 A. We was trying to salvage -- we
11 was trying to clean up a mess.

12 Q. And you immediately notified
13 somebody, didn't you?

14 A. Yeah. Josh was about as far as
15 from me to her. We was right side by
16 side. He heard it when it popped. And
17 the supervisor was on -- he was on the
18 truck about a minute or two after it
19 happened.

20 Q. Who was that?

21 A. Chris Cheatwood.

22 Q. And is he one of the assistant
23 managers?

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1 A. He was the assistant manager --
2 night manager at night that night. So,
3 we went to his office and filled out a
4 report.

5 Q. That was like the first report
6 of the incident or something like that?

7 A. Yeah, just as soon as it
8 happened.

9 Q. Okay. And did you go home?

10 A. No. He got a man off the floor
11 crew to take me out to the emergency room
12 and dropped me off and left me.

13 Q. Okay.

14 A. My wife got off work and didn't
15 even know where I was at.

16 Q. Who took you to the hospital?

17 A. Boy off the floor crew, Glen --
18 I don't -- I can't remember his last
19 name. His name was Glen. He got him to
20 take me out there and put me out.

21 Q. Okay. Well, did that make you
22 mad?

23 A. Well, I thought, you know,

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1 somebody from management should have went
2 with me, you know.

3 Q. Okay. But they did send you to
4 the hospital. And that was Randolph
5 Medical Center.

6 A. Yeah.

7 Q. Is that the hospital up in
8 Wedowee?

9 A. Right out here. Right out here
10 on 22.

11 Q. All right.

12 A. And they x-rayed it. And he
13 said he didn't see any broke bone. He
14 said it could be just be a pulled muscle.
15 And they give me a shot. And my wife got
16 off work at 8:00, and she come and picked
17 me up after they told her at Wal-Mart
18 where I was at.

19 Q. Okay. So, she want out --

20 A. She didn't even know where I was
21 at.

22 Q. Did she go out to the store?

23 A. Yeah, she went to the store,

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1 looking for me to pick me up.

2 Q. Okay.

3 A. Because she worked at night.

4 Q. So, y'all both worked at night?

5 A. Yeah. She worked at Candlewick.

6 She dropped me off and then she'd come
7 pick me up in the morning. She didn't
8 even know I was out there. Nobody
9 bothered to call her and tell her I was
10 out there or nothing.

11 Q. So, she came and got you at
12 the -- does that make you mad that nobody
13 called your wife?

14 A. Yeah, it really -- you know, she
15 come up there looking for me, and they
16 said, "He's in the emergency room." And
17 she didn't -- she freaked out because she
18 didn't know what was going on. You know,
19 nobody let her know.

20 Q. How long did you have to wait
21 for her to come get you at the emergency
22 room?

23 A. I got up at the emergency room

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1 at 5:00, and she got off work at 6:00.

2 She was out there a little after 6:00.

3 Q. Had you already been seen by the
4 doctor when she got there?

5 A. They done the x-ray and then
6 give me a shot of Demerol.

7 Q. So, how long were you waiting on
8 her before she got there?

9 A. Probably 45 minutes to an hour.

10 Q. Okay. So, it wasn't too bad?

11 A. And then I had to bring
12 paperwork back to Wal-Mart.

13 Q. So, y'all left the hospital and
14 went back to Wal-Mart?

15 A. Yeah.

16 Q. Okay. Did you go inside and
17 give the documents to somebody?

18 A. Yes.

19 Q. Who did you give them to?

20 A. Personnel manager and the
21 manager. They told me to go ahead and
22 take the next two days off, you know, to
23 see how it was going to do. And they

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1 sent me to a company doctor, Dr. Shirah,
2 on the next following Monday.

3 Q. Okay. What day of the week did
4 you get hurt, do you remember?

5 A. I believe it was on a Wednesday
6 night.

7 Q. Okay.

8 A. Because I know I worked Sunday
9 through -- Sunday through Thursdays. I
10 think it was on a Tuesday night or a
11 Wednesday night, the middle of the week.

12 MR. BROWN: Can we take a few
13 minutes?

14 (A short break was taken.)

15 Q. (By Mr. Brown) All right. Well,
16 you went back by the store and dropped
17 off the paperwork?

18 A. Yeah.

19 Q. And then you went home for a
20 couple of days?

21 A. Yeah, because I didn't have but
22 two more days left in that week.

23 Q. Okay. And then you went to a

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1 doctor?

2 A. They sent me to Dr. Shirah on
3 Monday morning.

4 Q. Okay. Did you have any other
5 appointments before that that you missed
6 or that you couldn't go to?

7 A. No. They just told me to take
8 two days off and they would set me up
9 with Dr. Shirah on Monday morning.

10 Q. Okay. Who called you and told
11 you to go see Dr. Shirah?

12 A. Charlotte Woody. She's the
13 personnel manager. She set it up, the
14 appointment up.

15 Q. And after you talked to Ms.
16 Woody and she told you to go see
17 Dr. Shirah, did you have any other
18 contact with her, or did you start
19 working with the people out at CMI?

20 A. I didn't have -- I took the two
21 days off and then went out there at his
22 office on Monday. She called and made me
23 an appointment and told me at home --

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1 called me at home and told me what time
2 the appointment was -- to be there.

3 Q. All right. And then you went
4 out there to see him on, I think, October
5 the 4th or October the 1st?

6 A. It was on a Monday.

7 Q. Okay.

8 A. And he treated me -- he told me
9 to take a week off and treated me for a
10 muscle pull.

11 Q. Okay. And gave you some
12 medication; right?

13 A. Yeah. He gave me something for
14 infection and some pain medicine.

15 Q. Okay. And that was the first
16 time you saw him was on October the 4th?

17 A. Yeah, it was on a Monday.

18 Q. Okay.

19 A. He treated me for a week.

20 Q. And my question was: After
21 Ms. Woody called you and told you to go
22 see Dr. Shirah, who scheduled the rest of
23 your doctor's appointments and who did

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1 you have contact with about what doctor
2 to go to next?

3 A. Well, after I went to him for a
4 week, he told me to come back the next
5 following week and he'd look at me again.
6 And I went back the next following week.
7 And he told me if they had anything I
8 could do with one arm, not to pick up
9 nothing over five pounds, and I could go
10 back and work with one arm. So, I went
11 back. They put me to zoning, stuff like
12 that.

13 Q. What is zoning?

14 A. When you pull all your stuff on
15 your shelf to the front and everything
16 and straighten stuff out.

17 Q. Okay.

18 A. But I was using this left arm so
19 much, after two days, I couldn't even use
20 it, it was hurting so bad.

21 Q. All right.

22 A. So, they put me to door
23 greeting.

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1 Q. All right. So, you went to
2 Dr. Shirah on the 4th?

3 A. Uh-huh (affirmative).

4 Q. And he said that it was -- he
5 would keep you out of work for four days?

6 A. Uh-huh (affirmative).

7 Q. And he said that it was a
8 shoulder sprain; right?

9 A. He said it was either that or a
10 pulled muscle.

11 Q. Pulled muscle. He gave you some
12 Motrin and some other things for pain;
13 correct?

14 A. Yeah.

15 Q. All right. And you went back on
16 the 8th, which was four days later?

17 A. Yeah.

18 Q. And that's when he said that you
19 could go back to work on the 10th doing
20 light duty?

21 A. Yeah. And come back to see him
22 on that Friday.

23 Q. Okay. And you went back on the

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1 15th?

2 A. That's right.

3 Q. About a week later?

4 A. Yeah.

5 Q. You were still having pain?

6 A. Yes.

7 Q. And that's the first time he
8 thought that it could possibly be a tear;
9 right?

10 A. Yeah. He said we need to go get
11 an MRI.

12 Q. Okay. He kept you on the
13 medications. And you were still working
14 light duty; right?

15 A. Yeah, just door greeting. And
16 I'd take a buggy and go around with my
17 good hand and pick up things that was in
18 the wrong spot and push with one hand. I
19 wasn't using my arm.

20 Q. And then you had an MRI done on
21 the 19th?

22 A. At Oxford?

23 Q. In Oxford. You went back and

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1 saw Dr. Shirah one more time?

2 A. Yeah.

3 Q. And you told him --

4 A. That's when he said there's
5 nothing he could do.

6 Q. What did he say?

7 A. He said, "You've got to go to an
8 orthopedic surgeon. There's nothing I
9 can do for you. It's got to be -- have
10 surgery."

11 Q. Okay. Now, before we move on to
12 the next doctor, after you saw Dr. Shirah
13 on October the 4th -- well, strike that.

14 You got hurt on September the
15 28th, and you went to see Dr. Shirah on
16 October 4th?

17 A. Uh-huh, on Monday.

18 Q. So, during that time frame, did
19 you have any contact with anybody out at
20 CMI in Arkansas.

21 A. Huh-uh (negative).

22 Q. And you found out about going to
23 Dr. Shirah by Charlotte Woody at the

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1 store?

2 A. Charlotte Woody, she set me --
3 the appointment up with him.

4 Q. And did you talk to anybody else
5 at the store about doctors and
6 appointments other than Charlotte Woody?

7 A. Now, she's usually the one that
8 set up the appointments besides
9 Ms. Victoria. She'd call Victoria, and
10 Victoria would tell her who to send me to
11 or whatever.

12 Q. Okay.

13 A. I don't even -- I don't even
14 know what her last name is. Just
15 Victoria is all I know. She's with
16 workman's comp.

17 Q. And did you talk to her very
18 many times?

19 A. I talked to her several, several
20 times.

21 Q. Okay. We'll get into those.
22 How many times did you talk to Ms. Woody
23 about doctor's appointments and problems

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1 with your shoulder?

2 A. Every week. She'd ask me, you
3 know. And as soon as he looked at the
4 MRI, he got on the phone to
5 Ms. Charlotte -- to Ms. Victoria himself,
6 workman's comp -- Dr. Shirah did and told
7 her that I had to have surgery and needed
8 it immediately.

9 So, she was going to send me to
10 Gadsden. And I asked him could he call
11 and see if he could get somewhere closer.
12 So, she called him back. And they sent
13 me to Alex City, which is a little
14 closer.

15 Q. Who were they going to send you
16 to in Gadsden?

17 A. They never did say. They
18 just -- he asked them could they get me
19 somebody closer, so they sent me to Alex
20 City.

21 Q. All right. And you were talking
22 to Dr. Shirah about what orthopedic
23 doctor you were going to go to?

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1 A. Uh-huh (affirmative).

2 Q. That was yes?

3 A. Yeah. That was as soon as he
4 brought them in there and showed them to
5 me. He said I'll call Ms. Victoria and
6 get her to send you to another doctor --

7 Q. Okay.

8 A. -- surgery.

9 Q. All right. So, who called you
10 and told you that you had an appointment
11 with Dr. Howorth?

12 A. Ms. Victoria when I got home
13 from Dr. Shirah's office, she called me
14 at home -- at my mother-in-law's.

15 Q. Okay. So, was that the first
16 time you ever talked to Ms. Victoria?

17 A. Yeah. She told me where to go
18 and who to go to.

19 Q. And that was on about October
20 the 22nd?

21 A. Uh-huh, I believe it was. It
22 was on a Wednesday because he said he was
23 full up on surgery the next day. He